PERIODIC REVIEW

Modern Machinery
Facility Site ID#: 97995414

22431 83rd Avenue S.,
Kent, Washington

Northwest Region Office

TOXICS CLEANUP PROGRAM

March 2010

1.0 INTRODUCTION

This document is a review by the Washington State Department of Ecology (Ecology) of post-cleanup Site conditions and monitoring data to ensure that human health and the environment are being protected at the Modern Machinery (Site). Cleanup at this Site was implemented under the Model Toxics Control Act (MTCA) regulations, Chapter 173-340 Washington Administrative Code (WAC).

Cleanup activities at this Site were completed under the Voluntary Cleanup Program (VCP). The cleanup actions resulted in concentrations of petroleum hydrocarbons and arsenic remaining at the Site which exceed MTCA cleanup levels. The MTCA cleanup levels for soil are established under WAC 173-340-740. The MTCA cleanup levels for groundwater are established under WAC 173-340-720. WAC 173-340-420 (2) requires that Ecology conduct a periodic review of a Site every five years under the following conditions:

(a) Whenever the department conducts a cleanup action
(b) Whenever the department approves a cleanup action under an order, agreed order or consent decree
(c) Or, as resources permit, whenever the department issues a no further action opinion;
(d) and one of the following conditions exists:
    1. Institutional controls or financial assurance are required as part of the cleanup
    2. Where the cleanup level is based on a practical quantitation limit
    3. Where, in the department's judgment, modifications to the default equations or assumptions using Site-specific information would significantly increase the concentration of hazardous substances remaining at the Site after cleanup or the uncertainty in the ecological evaluation or the reliability of the cleanup action is such that additional review is necessary to assure long-term protection of human health and the environment.

When evaluating whether human health and the environment are being protected, the factors the department shall consider include [WAC 173-340-420(4)]:

(a) The effectiveness of ongoing or completed cleanup actions, including the effectiveness of engineered controls and institutional controls in limiting exposure to hazardous substances remaining at the Site;
(b) New scientific information for individual hazardous substances of mixtures present at the Site;
(c) New applicable state and federal laws for hazardous substances present at the Site;
(d) Current and projected Site use;
(e) Availability and practicability of higher preference technologies; and
(f) The availability of improved analytical techniques to evaluate compliance with cleanup levels.

The Department shall publish a notice of all periodic reviews in the Site Register and provide an opportunity for public comment.

2.0 SUMMARY OF SITE CONDITIONS

2.1 Site Description and History

The Site is located at 22431 83rd Avenue South in Kent, Washington. Now known as Modern Machinery, the previous name was Pacific North Equipment (PNE), and before that McDonald Industries. The Site was and is a heavy equipment sales and service business operation. It was sold in March 1997 by Matthew G. Norton Company (Seller) to Fisher Properties (Buyer). Kennedy/Jenks Consultants met informally with Ecology in February 1999 on behalf of the Seller to discuss the work completed at the Site and Ecology's opinions regarding the adequacy of the available Site documentation to pursue an 'No Further Action' NFA determination under the VCP. Based on Ecology's comments, additional Site investigative data and other information were obtained. There is a notification in Ecology files of another property transfer whereby Modern Machinery purchased the property from RREEF America II in 2004, having assumed the lease from PNE in November 2002. Ecology does not appear to have been notified of the other transactions.

The Site is bounded on the north by an access road, on the east by 83rd Avenue South, and on the south and west by Fisher Industrial Park. The Site was first developed around 1976 by Evans Engine and Equipment Company as a heavy equipment servicer and distributor. Although the business name has changed several times since Evans was the original owner, the nature of the business and the practices have remained the same. Two buildings are located on the approximately six-acre Site. The largest building is approximately 32,000 square feet, and consists of a warehouse/parts storage area, office space, and a garage where equipment is serviced. The second building, which is located in the northwestern portion of the Site, is used for painting heavy equipment. The northern portion of the Site is used for parking and storing heavy equipment, and some of it is unpaved. The remainder of the Site is surfaced with asphalt or concrete slabs. A heavy equipment wash rack and associated oil/water separator are located on the south side of the paint house. An area for stockpiling soil that is removed from the oil/water separator is located on the south side of the wash rack. A "hot tank", a steel tub filled with solvents and cleaners used for engine cleaning, is located on the west side of the oil/water separator. The "hot tank" is situated inside an approximately 7 by 10 foot concrete pit which acts as a secondary containment. A pump island and two associated underground storage tanks (USTs) are located on the east side of the paint house and are used for refueling the heavy equipment. Four aboveground storage tanks (ASTs) are located outside of the south and west sides of the garage. The two tanks on the south side store used oil, and the two tanks on the west side store diesel fuel, which is used inside the garage.

According to the geologic map (Luzier, 1969), the Site is underlain by alluvium, defined as dark reddish-gray, pebble-cobble gravel and sand, derived largely from Mount Rainier. Based on explorations at an adjacent property and information obtained at the Site, soils consist of 1 to 6 feet of fill on top of loose, reddish-gray to black, silty sand. Groundwater was encountered at the Site at 3 to 4 feet below ground surface (bgs) during sampling in January 1997. Regional groundwater flow in the Kent area is typically northwest toward the Green River; however,

topographic maps indicate that there are several streams in the immediate vicinity of the Site which could locally influence the groundwater flow direction. Based on surveyed probe locations and groundwater measurements, the groundwater at the Site is inferred to be flowing to the northeast.

2.2 Site Investigations and Sample Results

A Phase 1 Environmental Site Assessment (ESA) was performed at the Site by Rittenhouse Zeman and Associates (RZA) in December 1992. Conditions were observed at the time that had a potential for associated soil and groundwater contamination. The concerns raised by RZA were two abandoned USTs on the north side of the paint house, one waste oil UST on the north side of the garage, and two active USTs, as well as small cracks in the concrete around the ASTS and potential cracks and some stains at the garage trench drain, soil stockpile, storm drains, and the oil/water separator. The abandoned USTs and the waste oil UST were removed in December 1992 following issuance of the RZA Phase 1 ESA report. A sheen was noted on the concrete around the pump island near the active UST. Cracks were observed in the concrete in this area at that time, which could have provided a pathway for contaminant migration. Staining was observed on the concrete underneath the AST, as well as large cracks in the concrete, which could provide a pathway for contamination to enter the Site soils. RZA indicated that the structural integrity of the oil/water separator could not be observed, nor could the area underneath the soil stockpile be observed. There were trench drains in the garage, which contained an oily residue that indicated the possibility of spills being washed into the drains. An oil sheen was noted in puddled water surrounding one of the storm drains located in the area of the loading dock on the west side of the warehouse. The Site was listed at the time on the Ecology registered UST list. According to the list, three USTs had been removed from the Site and two USTs were currently operational. The UST Removal Report was reviewed to determine whether contamination was present at the time of the UST removals and if contamination was removed or left in place. The UST removal was conducted by James P. Hurley Company (Hurley) in December 1992. One 1,000-gallon gasoline UST and one 1,000-gallon diesel UST were removed from the north side of the paint houses. According to Hurley's report, "no significant release of product emanating from the gasoline and diesel USTs has occurred. Both tanks appeared to be in good condition with no visible signs of corrosive degradation or physical damage" (Hurley, 1993). During excavation of the waste oil UST, total petroleum hydrocarbons (TPH) were detected at concentrations of 130 to 2,100 milligrams per kilogram (mg/kg) in the sidewalls and bottom of the excavation. Hurley stated that, "The UST appeared to be in good condition at the time of the removal; the release was assumed to be associated with faulty fitting in the vicinity of the tank." According to Hurley, contaminated soil was excavated, and confirmation samples indicated that TPH concentrations of up to 130 mg/kg remained in the excavation, which is below the Model Toxics Control Act (MTCA) Method A cleanup level of 200 mg/kg. The Site was listed on the Ecology Leaking Underground Storage Tank (LUST) list because of the contamination reported in the waste oil tank excavation during removal.

A spill is reported to have occurred at the "hot tank" on the south side of the paint shop in 1995. The tank was overfilled with water, and cleaning solution filled the cement cavity in which the "hot tank" sits then flowed onto the wash rack. The wash rack drained into the oil/water

separator which drained to a Metro sewer pipe. None of the solution was believed to have entered the Site soils; it should have been contained in the oil/water separator. City of Kent Sewer Department, the City of Kent Fire Department, and Ecology were notified of the spill. No hazardous conditions were determined to be present, and the oil/water separator was pumped out and cleaned by Clean Care. The soil/sediment remaining was placed in the soil stockpile for disposal at a later date.

A subsurface exploration for the Phase 2 ESA was conducted on January 16 and 17, 1997. Shannon & Wilson subcontracted Transglobal Environmental Geosciences Northwest, Inc. (TEG), to drive 17 soil probes at the Site with a truck-mounted, hydraulic Strataprobe. The probes, labeled P-l through P-17, were installed to investigate potential concerns raised by the Phase 1 ESA. Specific concerns were for potential contamination associated with the former and current USTs, the ASTs, the oil/water separator, and the catch basins. Soil samples were collected continuously using either a 3 or 2 foot long split-spoon sampler. A photoionization detector (PID) was used during soil sampling to screen for volatile organic compounds (VOCs), such as gasoline and benzene. The probes were used to sample to depths of 6 to 12 feet.

Groundwater was encountered in the probes at 3 to 4 feet bgs. Soil and groundwater samples were collected from the areas of the current USTs, former USTs, the ASTs, the oil/water separator area, the soil stockpile, and the trench and storm drains. Sample locations were generally located near surface cracks in the concrete because of the potential for these cracks to provide pathways for contaminant migration. One soil and one groundwater sample from each probe were analyzed by TEG's mobile laboratory for diesel and oil range petroleum hydrocarbons by Method Washington TPH-Diesel Extended for oil (WTPH-Dx). Six locations (P-1, P-2, P-3, P-9, P-1l, and P-l2) were analyzed for gasoline range petroleum hydrocarbons by Method WTPH-Gasoline (WTPH-G); benzene, toluene, ethylbenzene, and xylenes (BTEX) by EPA Method 8020; and total lead by EPA Methods 7420 and 7421. Eight soil samples (P-5 through P-8, P-10, P-13, P-16, and P17) and ten groundwater samples (P-5 through P-8, P-10, and P13 through P-17) were submitted for total (soil) and dissolved (water) metals analysis of the eight Resource Conservation and Recovery Act (RCRA) metals (arsenic, barium, cadmium, chromium, lead, mercury, selenium, and silver). The soil and groundwater at P-16 were also analyzed for VOCs by EPA Method 8260 to evaluate potential impacts from the "hot tank."

Shannon & Wilson offered findings and conclusions based on the results of the sampling. Soil contamination was encountered at four locations at the Site: the area of the former waste oil UST, the current USTs, the oil/water separator area, and the ASTs area. Groundwater contamination was also encountered: dissolved arsenic across the Site and diesel near the current USTs.

The current USTs had diesel TPH in the soil at P-2 on their south side at a concentration of 210 mg/kg which is slightly above the MTCA Method A cleanup level of 200 mg/kg. The pavement in this area was cracked, and the detected concentrations could be a result of infiltration of spilled fuel through these cracks. TPH were not detected in the soil at the other three probe locations (P-1, P-9, and P-1l) in the UST area. The USTs had recently been tightness tested and did not appear to be leaking; however the piping system had not undergone leak detection.

Groundwater from P-2 did not contain detectable levels of TPH. Diesel range TPH were detected above the cleanup level in the groundwater at P-l1, on the east side of the current USTs. The groundwater at this location contained 3,000 micrograms per liter (ug/L) of diesel range TPH, which is above the 1,000 ug/L cleanup level. Diesel range TPH were not detected in the soil at P-1l. Probe number P-11A was installed to collect an additional groundwater sample to determine the extent of the contamination detected at P-11. TPH were not detected in the groundwater at locations P-11A, P-1, P-2, or P-9.

The former waste oil UST had oil and diesel range TPH near it at location P-6, at concentrations 1,600 and 420 mg/kg, respectively, at a depth of 6 to 8 feet bgs. Both of these concentrations are above the 200 mg/kg cleanup level. Oil and diesel range TPH were not detected in the soil at P-17 or in the groundwater at these locations. This contamination may have been outside the limitations of Hurley's excavation or it may be remaining from the piping system. The concern was that the contamination may have extended beneath the garage floor to the original fill port for the waste oil tank.

Diesel range TPH were detected in the soil at P-10, in the area of one of the ASTs on the west side of the garage, at a concentration of 1,400 mg/kg, which is above the 200 mg/kg MTCA Method A cleanup level. The sample was collected from approximately 0.5 to 3.0 feet bgs and was likely the result of surface infiltration through the cracks and seams in the concrete beneath the AST adjacent to P-10. Heavy staining was noted on the concrete beneath the ASTs on the south side of the garage and adjacent to P-10. Probe numbers P-7 and P-8 were also advanced in the location of the two ASTs on the south side of the garage. TPH were not detected in the soil at these locations.

Probe P-13 was advanced in the area of the oil/water separator. The soil samples collected from 0.5 to 3.0 feet at this location contained 260 mg/kg and 120 mg/kg of diesel and oil range TPH, respectively. The soil collected from this location was a near-surface sample 0.5 to 3.0 feet bgs. Therefore, the contamination was likely a result of surface infiltration through the cracks and seams in the concrete and not a result of leakage from the oil/water separator. Water draining from the sludge/soil stockpile can flow over this and other cracks in the concrete in the immediate vicinity of the wash rack and the oil/water separator.

Dissolved arsenic was detected in the groundwater at several locations across the Site: P-5, P-6, P-7, P-8, P-13, and P-16. The concentrations of dissolved arsenic detected ranged from 13 to 89 ug/L, which are above the MTCA Method A cleanup level of 5 ug/L. Arsenic concentrations in soil were not above cleanup levels at the nine locations where soil was analyzed for total metals. The consultant claimed it is common to find arsenic concentrations in the 5 ug/L to 20 ug/L range as natural background; however, the Site concentrations from 20 to 89 ug/L are higher than what is considered background. The consultant further claimed it is possible that the natural background concentration for arsenic in this part of the Kent Valley is elevated as high as 90 ug/L. The conjecture that the arsenic in the groundwater was background was not proven, at least by any record in Ecology's cleanup file.

Samples were collected from some remaining locations. Two samples were collected from the area of the former USTs (P-3 and P-12) to verify Hurley's findings. One sample was collected from a crack in the concrete next to the soil stockpile area (P-5) to check for infiltration of any runoff from the stockpile that did not drain on the wash rack. Three samples were collected next to the catch basins (P-4, P14, and P-15) because leaks in piping can result in localized contamination. Probe P-15 was also used to evaluate the area where the trench drain was connected to the sewer system. Probe P- 16 was advanced on the west side of the wash rack to evaluate potential impacts from the "hot tank", spill, and potential runoff from the wash rack. None of these soil sample locations contained TPH, lead, or metals above the MTCA Method A cleanup levels. VOCs were not detected in the soil or groundwater at P-16.

2.3 Cleanup Actions

Kennedy/Jenks Consultants observed the decommissioning and removal of two USTs on October 20, 1997, from a single excavation by Global Environmental of Seattle, Washington. The tank capacities were 8,000 and 10,000 gallons. Site assessment soil and groundwater samples were collected by a Kennedy/Jenks Consultants' geologist for analysis. Field screening and analytical results indicated that TPH concentrations in the soil and groundwater remaining in the UST excavation area following the UST removal work were below the applicable MTCA Method A cleanup levels for TPH.

Remediation in the former waste oil UST area was accomplished by excavation and off-Site disposal of the affected soil. The remediation work was completed on October 31, 1997. Soil excavation was performed by Global Environmental and observed by Kennedy/Jenks Consultants. Overlying concrete was sawcut and broken apart with a backhoe mounted breaker. The limits of soil excavation were guided based on field screening of grab samples and observation of visual evidence of soil exposure to petroleum. The initial excavation measured approximately 18 feet by 10 feet. Petroleum affected soil was initially encountered at a depth of approximately 4 feet bgs and extended vertically to a depth of approximately 8 feet bgs. Petroleum affected soil did not extend laterally past the southern edge of the excavation (i.e., did not extend beneath the building); however, it was necessary to extend the initial excavation to the north and west by approximately 2 feet to remove affected soil. In addition, the east side of the initial excavation was extended laterally by approximately 7 feet. A total volume of approximately 48 tons (32 cubic yards) of petroleum affected soil was removed from the excavation. Kennedy/Jenks Consultants collected confirmation soil samples from the bottom and sidewalls of the excavation. Three samples were collected from the excavation sidewalls at a depth of 7 feet bgs, and one sample was collected from the bottom of the excavation at a depth of 8 feet bgs. Soil samples were submitted to Analytical Resources, Inc. (ARI) in Seattle, Washington, for analysis by the Ecology Methods WTPH-D and WTPH-Dx. Samples collected from the bottom of the excavation (P6-B-8) and north sidewall (P6-N-7) were analyzed as discrete samples, and samples collected from the east (P6-E-7) and west (P6-W-7) sidewalls were composited in the laboratory for analysis. Diesel and heavy oil range TPH were not detected in any of the confirmation soil samples. Laboratory detection limits were 6.8 milligrams per kilogram (mg/kg) for diesel range TPH and 14 mg/kg for heavy oil range TPH. Petroleum affected soil in the former waste oil UST area was excavated and disposed off-Site.

The remediation work undertaken in the AST area was completed on October 31, 1997. Soil excavation was performed by Global Environmental and observed by Kennedy/Jenks Consultants. Overlying concrete was sawcut and broken apart with a backhoe-mounted breaker. The limits of the soil excavation were guided based on field screening of grab samples and observation of visual evidence of petroleum contamination. The excavation measured approximately 8 feet by 8 feet. Petroleum affected soil was initially encountered at a depth of approximately 2 feet bgs and extended vertically to a depth of approximately 3 to 3.5 feet bgs. Petroleum affected soil was not observed to extend laterally past the edges of the excavation with the exception of a 1 to 2 inch thick "band" of discolored soil that was observed on the eastern and southern excavation sidewalls at a depth of 12 to 15 inches bgs. The band was laterally continuous for several feet but terminated along the south and east sidewalls. The grayish color of the band suggested that the soil in this thin zone had been exposed to petroleum, which had since weathered significantly. During a telephone consultation on the day of the excavation work, Ms. Melissa Papworth of Kennedy/Jenks Consultants and Ms. Gretchen Miller of Shannon & Wilson, Inc., agreed that further excavation in the AST area to remove the thin band of discolored soil was not warranted. Soil that appeared to contain petroleum was loaded directly onto a truck and transported to Rabanco for use as cover in their Roosevelt, Washington, Subtitle D landfill. A total volume of approximately 7 tons (5 cubic yards) of petroleum affected soil was removed from the excavation. Kennedy/Jenks Consultants collected a confirmation soil sample from the excavation bottom at a depth of 3.5 feet bgs. The confirmation soil sample was submitted to ARI for analysis by Ecology Method WTPH-D. Diesel range TPH was not detected in the sample. Petroleum affected soil in the AST area was excavated and disposed off-Site. The thin zone of discolored soil observed in the AST area did not appear to pose a threat to human health or the environment according to the consultants involved.

During the Phase 2 investigation by Shannon & Wilson, Inc., diesel range petroleum hydrocarbons were detected in a shallow groundwater sample that was collected by pumping groundwater from an open probe hole located adjacent to the USTs. Additional groundwater sampling was performed during the UST removal to evaluate the possible presence of dissolved TPH in shallow groundwater in this area. One groundwater sample (GW) was collected on October 20, 1997, from a trench excavated adjacent to the north end of the UST excavation. The trench was excavated in an attempt to obtain a representative sample of shallow groundwater near the UST removal excavation. The trench was allowed to fill with groundwater from the surrounding formation prior to sample collection by Kennedy/Jenks Consultants. An additional groundwater sample was collected by Global Environmental from the main UST excavation on October 23, 1997, after pumping several hundred gallons of water from the UST removal excavation. Both groundwater samples were analyzed by Ecology Method WTPH-diesel. Diesel range TPH was detected at a concentration of 2.4 milligrams per liter (mg/L) in sample GW collected on October 20, 1997, but it was not detected in sample GW-2 collected on October 23, 1997. The shallow groundwater sampled from the trench excavated immediately north of the UST removal excavation did not exhibit any indication of petroleum contamination. Because of this observation, cross-contamination of sample GW in the field was suspected and shallow groundwater sample GW-2 was collected from the main UST removal excavation (after pumping to draw in fresh formation water) in an attempt to determine whether the shallow groundwater in

the excavation area actually contained dissolved petroleum. Based on the analytical results from GW-2, there does not appear to be dissolved TPH concentrations in shallow groundwater surrounding the former UST installation.

During the performance of the Phase 2 investigation by Shannon & Wilson, Inc., dissolved arsenic concentrations exceeding the MTCA Method A cleanup level of 5 ug/L were detected in several shallow groundwater samples. Three groundwater monitoring wells were drilled and completed by Cascade Drilling, Inc. of Woodinville, Washington on June 13, 1997, (MW-1) and August 13, 1997, (MW-2 and MW-3) using truck-mounted hollow-stem auger drilling techniques. Monitoring wells MW-1 through MW-5 were completed to depths of 12.5 to 14 feet bgs. Samples were analyzed for total and dissolved arsenic using EPA Method 7060 and for total suspended solids using EPA Method 160.2. Groundwater samples were submitted for analysis to ARI (June 19, 1997, sampling event) and to CCI Analytical Laboratories, Inc. of Everett, Washington (all other sampling events). Total arsenic was detected in samples from all three wells at concentrations ranging from 21 to 60 ug/L; dissolved arsenic was detected in samples from all three wells at 5 concentrations from 22 to 62 ug/L. Total suspended solids ranged from 5 to 160 mg/L. Triangulation of water level data obtained on August 27, 1997, indicated a hydraulic gradient slope (and inferred groundwater flow direction) to the east-northeast. The Consultants opined the arsenic concentrations detected in the groundwater samples collected from the on-Site wells represent regional shallow groundwater quality conditions, but there appears to be no record of this being proven. The data collected did not indicate that an on-Site source of arsenic contributing to the dissolved arsenic concentrations in shallow groundwater was present.

2.4 Cleanup Levels

MTCA Method A values were used to set Site cleanup levels.

2.5 Restrictive Covenant

Based on industrial Site use, surface cover and cleanup levels, it was determined that the Site was eligible for a 'No Further Action' determination for the petroleum release if a Restrictive Covenant was recorded for the property. A Restrictive Covenant was recorded for the Site in 2000 which imposed the following limitations:

Section 1: The Property shall be used only for traditional industrial uses as described in RCW 70.105D.020(23) and defined in and allowed under the city of Kent's zoning regulations codified by the City of Kent as of the date of this Restrictive Covenant. A portion of the Property contains diesel contaminated soil located immediately west of the garage building (main shop) within six feet of the west wall of that building under an existing concrete patch. The Owner shall not alter, modify, or remove the existing structure in any manner that may result in the release or exposure to the environment of that contaminated soil or create a new exposure pathway without prior written approval from Ecology. Some examples of activities that are prohibited in the capped area include drilling, digging, placement of any objects, or use of any equipment which deforms

or stresses the surface beyond its load bearing capability, piercing the surface with a rod, spike, or similar item, bulldozing or earthwork.
Section 2: Any activity on the Property that may interfere with the integrity of the Remedial Action and continued protection of human health and the environment is prohibited.
Section 3: Any activity on the Property that may result in the release or exposure to the environment of a hazardous substance that remains on the Property as part of the Remedial Action, or create a new exposure pathway, is prohibited without prior written approval from Ecology.
Section 4: The Owner of the property must give thirty (30) day advance written notice to Ecology of the Owners intent to convey any interest in the Property. No conveyance of title, easement, lease, or other interest in the Property shall be consummated by the Owner without adequate and complete provision for continued monitoring, operation, and maintenance of the Remedial Action.
Section 5: The Owner must restrict leases to uses and activities consistent with the Restrictive Covenant and notify all lessees of the restrictions on the use of the Property.
Section 6: The Owner must notify and obtain approval from Ecology prior to any use of the Property that is inconsistent with the terms of this Restrictive Covenant. Ecology may approve any inconsistent use only after public notice and comment.
Section 7: The Owner shall allow authorized representatives of Ecology the right to enter the Property at reasonable times for the purpose of evaluating the Remedial Action, to take samples, to inspect remedial actions conducted at the property, and to inspect records that are related to the Remedial Action.
Section 8: The Owner of the Property reserves the right under WAC 173-340-440 to record an instrument that provides that this Restrictive Covenant shall no longer limit use of the Property, or be of any further force or effect. However, such an instrument may be recorded only if Ecology, after public notice and opportunity for comment, concurs.

The Restrictive Covenant is available as Appendix 6.4.

3.0 PERIODIC REVIEW

3.1 Effectiveness of completed cleanup actions

The Restrictive Covenant for the Site was recorded and is in place. This Restrictive Covenant prohibits activities that will result in the release of contaminants at the Site without Ecology's approval, and prohibits any use of the property that is inconsistent with the Covenant. This Restrictive Covenant serves to ensure the long term integrity of the remedy.

Based upon the Site visit conducted on March 17, 2010, the remedy at the Site continues to eliminate exposure to contaminated soils by ingestion and contact. The remedy appears in satisfactory condition and no repair, maintenance, or contingency actions have been required. The Site is still operating as a heavy equipment sales and service facility. A photo log is available as Appendix 6.5.

Soils with petroleum concentrations higher than MTCA cleanup levels are still present at the Site. However, the remedy prevents human exposure to this contamination by ingestion and direct contact with soils. The Restrictive Covenant for the property will ensure that the contamination remaining is contained and controlled. Groundwater was apparently not affected by the petroleum release, but is affected by arsenic. The arsenic in the groundwater, as a separate release, or background (unproven), was not addressed by the cleanup action for the petroleum.

3.2 New scientific information for individual hazardous substances for mixtures present at the Site

There is no new scientific information for the contaminants related to the Site.

3.3 New applicable state and federal laws for hazardous substances present at the Site

The cleanup at the Site was governed by Chapter 173-340 WAC (1996 ed.). WAC 173-340-702(12) (c) [2001 ed.] provides that,

"A release cleaned up under the cleanup levels determined in (a) or (b) of this subsection shall not be subject to further cleanup action due solely to subsequent amendments to the provision in this chapter on cleanup levels, unless the department determines, on a case-by-case basis, that the previous cleanup action is no longer sufficiently protective of human health and the environment."

Although cleanup levels changed for petroleum hydrocarbon compounds as a result of modifications to MTCA in 2001, contamination remains at the Site above the new MTCA Method A and B cleanup levels. Even so, the cleanup action is still protective of human health

and the environment. A table comparing MTCA cleanup levels from 1991 to 2001 is available below.

Analyte	1991 MTCA Method A Soil Cleanup Level (ppm)	2001 MTCA Method A Soil Cleanup Level (ppm)	1991 MTCA Method A Groundwater Cleanup level (ppb)	2001 MTCA Method A Groundwater Cleanup Level (ppb)
Cadmium	2	2	5	5
Lead	250	250	5	15
TPH	NL	NL	1000	NL
TPH-Gas	100	100/30	NL	1000/800
TPH-Diesel	200	2000	NL	500
TPH-Oil	200	2000	NL	500

NL = None listed

3.4 Current and projected Site use

The Site is currently used for industrial purposes. There have been no changes in current or projected future Site or resource uses.

3.5 Availability and practicability of higher preference technologies

The remedy implemented included containment of hazardous substances, and it continues to be protective of human health and the environment. While higher preference cleanup technologies may be available, they are still not practicable at this Site.

3.6 Availability of improved analytical techniques to evaluate compliance with cleanup levels

The analytical methods used at the time of the remedial action were capable of detection below selected Site cleanup levels. The presence of improved analytical techniques would not affect decisions or recommendations made for the Site.

4.0 CONCLUSIONS

The following conclusions have been made as a result of this periodic review:

- The cleanup actions completed at the Site for petroleum appear to be protective of human health and the environment.

- Soils cleanup levels have not been met at the standard point of compliance for the Site; however, the cleanup action has been determined to comply with cleanup standards since the long-term integrity of the containment system is ensured, and the requirements for containment technologies are being met.

- The Restrictive Covenant for the property is in place and continues to be effective in protecting public health and the environment from exposure to hazardous substances and protecting the integrity of the cleanup action.

- Groundwater was apparently not affected by the petroleum release, but is affected by arsenic. This may be a background level but this has apparently not been established. The 'No Further Action' letter issued February 25, 2000 may need to be replaced to clarify the arsenic issue.

Based on this periodic review, the Department of Ecology has determined that the requirements of the Restrictive Covenant continue to be met. No additional cleanup actions for the petroleum are required by the property owner. It is the property owner's responsibility to continue to inspect the Site to assure that the integrity of the remedy is maintained.

4.1 Next Review

The next review for the Site will be scheduled five years from the date of this periodic review. In the event that additional cleanup actions or institutional controls are required, the next periodic review will be scheduled five years from the completion of those activities.

5.0 REFERENCES

1) Supplemental Site Characterization, Pacific North Equipment Company, Kent, Washington, by Kennedy/Jenks Consultants, dated June 1999;

2) Remediation Work by Seller, Pacific North Equipment Company, Kent, Washington, by Kennedy/Jenks Consultants, dated December 1997;

3) Phase 2 Environmental Site Assessment, Fisher Industrial Park, Phase III, 22431 83rd Avenue South, Kent, Washington, by Shannon and Wilson, Inc., dated February 1997;

4) Underground Storage Tank Closure Summary Report, by James P. Hurley Co., dated April 5, 1993;

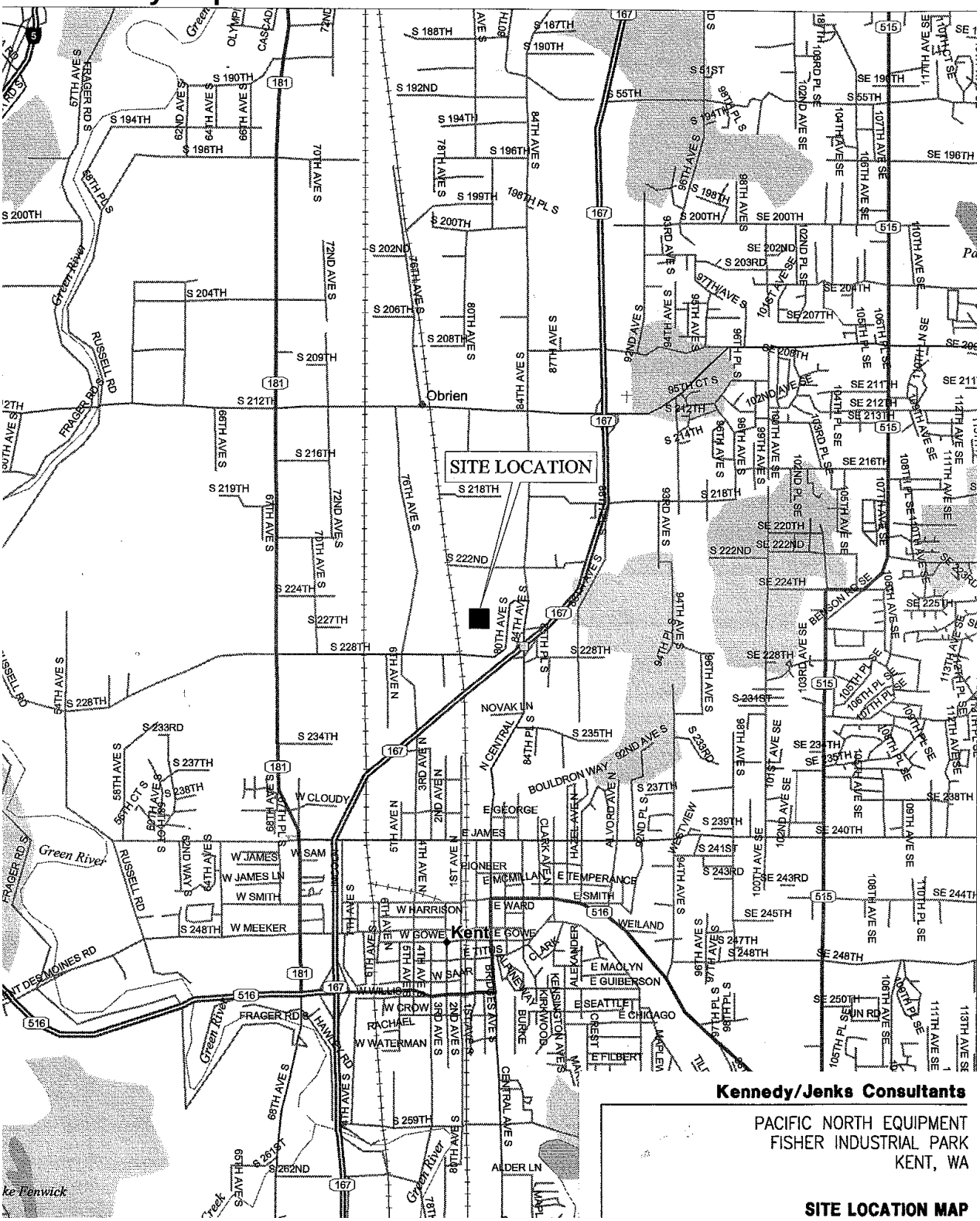
5) Level I Environmental Site Assessment and Visual Asbestos Survey, McDonald Industries, Inc., Kent, Washington, by AGRA Earth and Environmental, dated December 1992;

6) 2000 Restrictive Covenant.

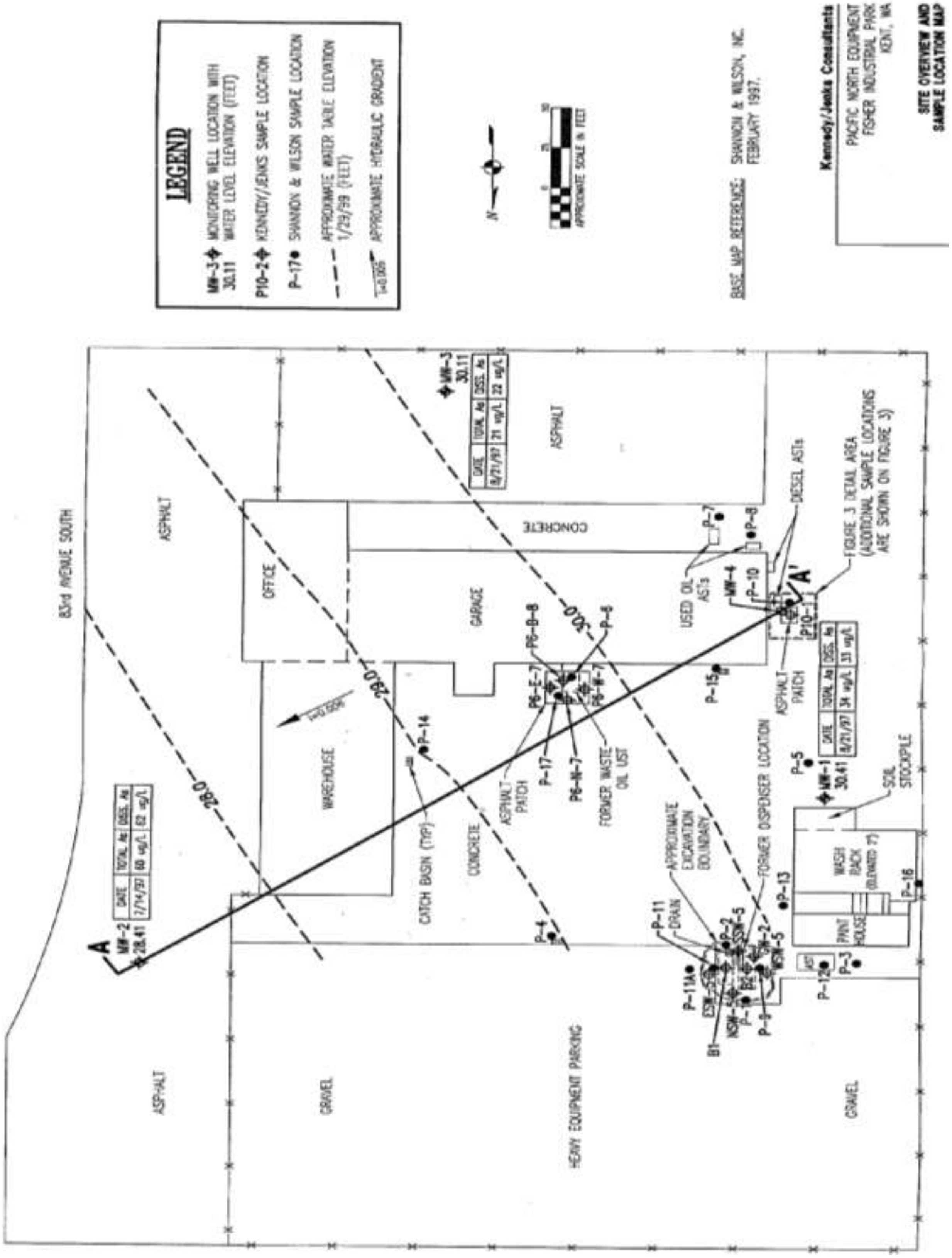
7) Ecology, 2010, Site Visit.

6.0 APPENDICES

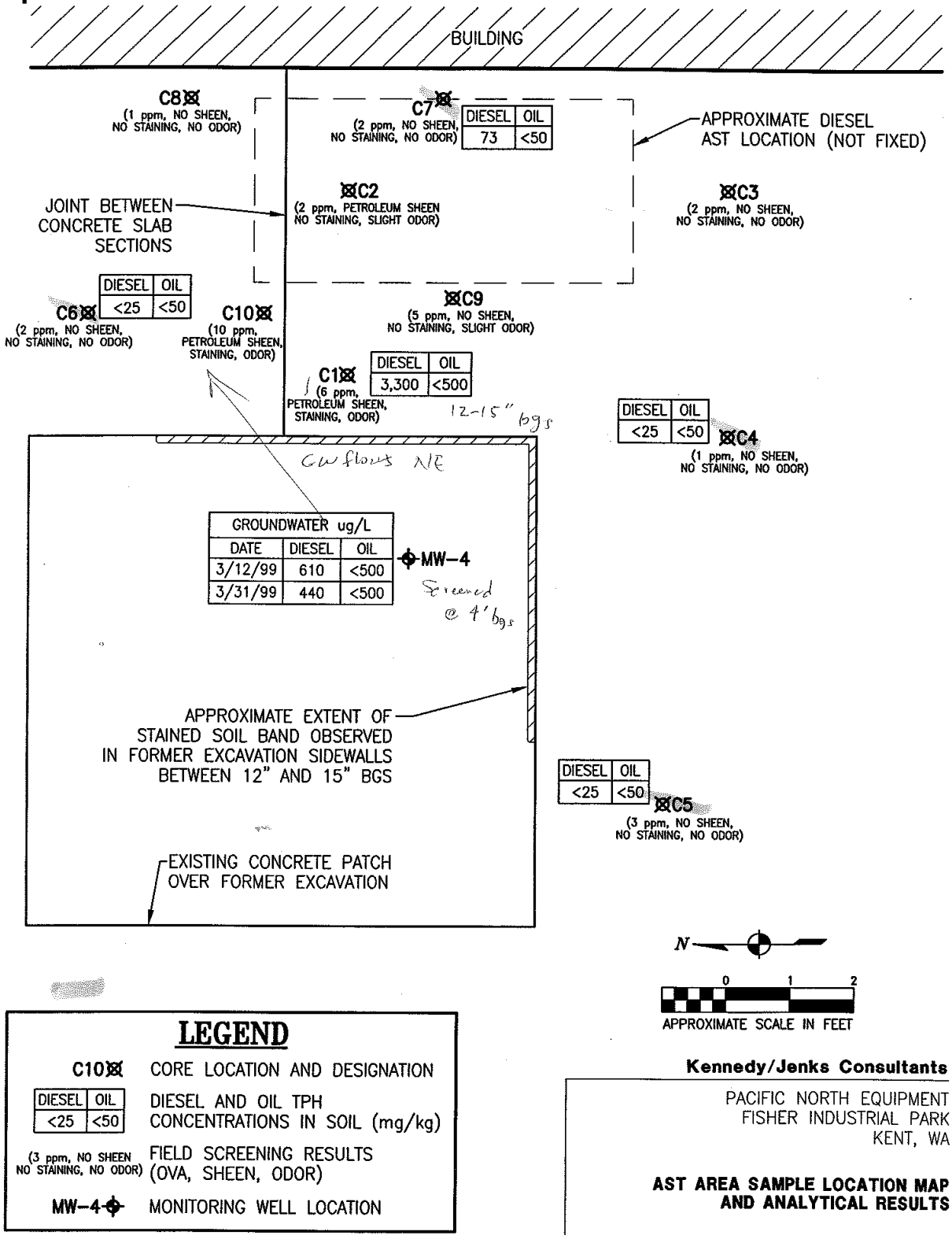
6.1 Vicinity Map



6.2 Site Plan


LEGEND
MONITORING WELL LOCATION WITH WATER LEVEL ELEVATION (FEET)
KENNEDY/JENKS SAMPLE LOCATION
SHANNON & WILSON SAMPLE LOCATION
APPROXIMATE WATER TABLE ELEVATION 1/29/99 (FEET)
APPROXIMATE HYDRAULIC GRADIENT
APPROXIMATE SCALE IN FEET
BASE MAP REFERENCE: SHANNON & WILSON, INC. FEBRUARY 1997.
Kennedy/Jenks Consultants
PACIFIC NORTH EQUIPMENT
FISHER INDUSTRIAL PARK
KENT, WA
SITE OVERVIEW AND SAMPLE LOCATION MAP
83rd AVENUE SOUTH
ASPHALT
OFFICE
GARAGE
WAREHOUSE
CONCRETE
GRAVEL
HEAVY EQUIPMENT PARKING
CATCH BASIN (TYP)
FORMER WASTE OIL UST
FORMER DISPENSER LOCATION
APPROXIMATE EXCAVATION BOUNDARY
USED OIL ASTs
DIESEL ASTs
SOIL STOCKPILE
WASH RACK
PAINT HOUSE
ASPHALT PATCH
FIGURE 3 DETAIL AREA (ADDITIONAL SAMPLE LOCATIONS ARE SHOWN ON FIGURE 3)
MW-1
MW-2
MW-3
MW-4
A
A'

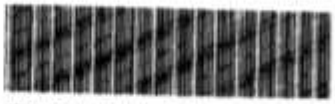
6.3 AST TPH Concentration Map



6.4 Environmental Covenant

Return Address:

Fredrick O. Fredrickson
Graham & Dunn
1420 Fifth Ave. 33rd Floor
Seattle WA 98101



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02/07/2000 14:44
KING COUNTY, WA
GRAHAM & DUNN COV 11.00

2000 020 7001517

COVER SHEET

Document Title	**RESTRICTIVE COVENANT**
Grantor:	**FISHER PROPERTIES INC., a Washington corporation**
Grantee:	**STATE OF WASHINGTON**
Legal Description:	LOT 2, CITY OF KENT SHORT PLAT NUMBER SPC-75-8, RECORDED UNDER RECORDING NUMBER 7811200752, IN KING COUNTY, WASHINGTON, BEING A REVISION OF SHORT PLAT RECORDED UNDER RECORDING NUMBER 7509300693; TOGETHER WITH AN EASEMENT FOR INGRESS AND EGRESS AS CREATED BY INSTRUMENT RECORDED UNDER RECORDING NUMBER 7605060268; AND TOGETHER WITH AN EASEMENT FOR INSTALLATION, MAINTENANCE AND USE OF A RAILROAD SPUR TRACK AND FOR INGRESS, EGRESS AND UTILITIES AS CREATED BY INSTRUMENT RECORDED UNDER RECORDING NUMBER 7605060268 AND AS AMENDED BY INSTRUMENT RECORDED UNDER RECORDING NUMBER 9108050810.
Assessor's Property Tax Parcel Account Number:	**132204-9194-02**

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RESTRICTIVE COVENANT FOR FISHER PROPERTIES INC.

This Declaration of Restrictive Covenant is made pursuant to RCW 70.105D.030(1)(f) and (g) and WAC 173-340-440 by Fisher Properties Inc., its successors and assigns, and the State of Washington Department of Ecology, its successors and assigns (hereafter "Ecology").

An independent remedial action (hereafter "Remedial Action") occurred at the property that is the subject of this Restrictive Covenant. The Remedial Actions conducted at the property are described in the following documents:

1. *Supplemental Site Characterization Pacific North Equipment Company Kent, Washington*, by Kennedy/Jenks Consultants, dated June 1999.
2. *Remediation Work by Seller Pacific North Equipment Company Kent, Washington*, by Kennedy/Jenks Consultants, dated December 1997
3 *Phase 2 Environmental Site Assessment Fisher Industrial Park Phase III 22431 83rd Avenue South Kent, Washington*, by Shannon and Wilson, Inc., dated February 1997.
4. *Underground Storage Tank Closure Summary Report*, by James P. Hurley Co., dated April 5, 1993.
5. *Level I Environmental Site Assessment and Visual Asbestos Survey McDonald Industries, Inc Kent, Washington*, by AGRA Earth and Environmental, dated December 1992.

These documents are on file at Ecology's Northwest Regional Office.

This Restrictive Covenant is required because the Remedial Action resulted in residual concentrations of diesel contaminated soil which exceed the Model Toxics Control Act Method A Residential Cleanup Levels for soil established under WAC 173-340-740.

The undersigned, Fisher Properties Inc, is the fee owner of real property (hereafter "Property") in the County of King, State of Washington, that is subject to this Restrictive Covenant. The Property is legally described as follows

LOT 2, CITY OF KENT SHORT PLAT NUMBER SPC-75-8, RECORDED UNDER RECORDING NUMBER 7811200752, IN KING COUNTY, WASHINGTON, BEING A REVISION OF SHORT PLAT RECORDED UNDER RECORDING NUMBER 7509300693;

TOGETHER WITH AN EASEMENT FOR INGRESS AND EGRESS AS CREATED BY INSTRUMENT RECORDED UNDER RECORDING NUMBER 7605060268; AND

TOGETHER WITH AN EASEMENT FOR INSTALLATION, MAINTENANCE AND USE OF A RAILROAD SPUR TRACK AND FOR INGRESS, EGRESS AND UTILITIES AS CREATED BY INSTRUMENT RECORDED UNDER RECORDING NUMBER 7605060268 AND AS AMENDED BY INSTRUMENT RECORDED UNDER RECORDING NUMBER 9108050810.

Fisher Properties Inc. makes the following declaration as to limitations, restrictions, and uses to which the Property may be put and specifies that such declarations shall constitute covenants to run with the land, as provided by law and shall be binding on all parties and all persons claiming under them, including all current and future owners of any portion of or interest in the Property (hereafter "Owner").

Section 1: The Property shall be used only for traditional industrial uses, as described in RCW 70.105D.020(23) and defined in and allowed under the city of Kent's zoning regulations codified by the City of Kent as of the date of this Restrictive Covenant.

a. A portion of the Property contains diesel contaminated soil located immediately west of the garage building (main shop) within six feet of the west wall of that building under an existing concrete patch. The Owner shall not alter, modify, or remove the existing structure in any manner that may result in the release or exposure to the environment of that contaminated soil or create a new exposure pathway without prior written approval from Ecology. Some examples of activities that are prohibited in the capped area include: drilling, digging, placement of any objects or use of any equipment which deforms or stresses the surface beyond its load bearing capability, piercing the surface with a rod, spike or similar item, bulldozing or earthwork.

Section 2. Any activity on the Property that may interfere with the integrity of the Remedial Action and continued protection of human health and the environment is prohibited.

Section 3. Any activity on the Property that may result in the release or exposure to the environment of a hazardous substance that remains on the Property as part of the Remedial Action, or create a new exposure pathway, is prohibited without prior written approval from Ecology.

Section 4. The Owner of the property must give thirty (30) day advance written notice to Ecology of the Owner's intent to convey any interest in the Property. No conveyance of title, easement, lease, or other interest in the Property shall be consummated by the Owner without adequate and complete provision for continued monitoring, operation, and maintenance of the Remedial Action.

Section 5. The Owner must restrict leases to uses and activities consistent with the Restrictive Covenant and notify all lessees of the restrictions on the use of the Property.

Section 6. The Owner must notify and obtain approval from Ecology prior to any use of the Property that is inconsistent with the terms of this Restrictive Covenant. Ecology may approve any inconsistent use only after public notice and comment.

Section 7. The Owner shall allow authorized representatives of Ecology the right to enter the Property at reasonable times for the purpose of evaluating the Remedial Action; to take samples, to inspect remedial actions conducted at the property, and to inspect records that are related to the Remedial Action.

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Section 8. The Owner of the Property reserves the right under WAC 173-340-440 to record an instrument that provides that this Restrictive Covenant shall no longer limit use of the Property or be of any further force or effect. However, such an instrument may be recorded only if Ecology, after public notice and opportunity for comment, concurs.

FISHER PROPERTIES INC.

2-3-00

[DATE SIGNED]

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

I certify that I know or have satisfactory evidence that Mark A. Weed is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the President of FISHER PROPERTIES INC., a Washington corporation, to be the free and voluntary act of such corporation for the uses and purposes mentioned in the instrument.

DATED: 2/3/00

(Signature)

Ruth T. Barnhart
(Please print name legibly)

NOTARY PUBLIC in and for the
State of Washington, residing
at Seattle
My commission expires 9-1-02

RUTH T. BARNHART NOTARY PUBLIC STATE OF WASHINGTON COMMISSION EXPIRES 09-01-02

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6.5 Photo log

Photo 1: Front entrance of office buildings - from east parking lot

Photo 2: Waste oil tank area adjacent to the garage - looking the south

Photo 3: Area near Paint House and Wash Rack, former USTs - looking northwest

Photo 4: Monitoring well at the west end of the garage buikding